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Thirty-first session

Agenda item 9

Racism, racial discrimination, xenophobia and related
forms of intolerance, follow-up and implementation
of the Durban Declaration and Programme of Action

Joint written statement^{*} submitted by International-Lawyers.Org, the Arab Organization for Human Rights, the General Arab Women Federation, Indian Movement "Tupaj Amaru", the International Organization for the Elimination of All Forms of Racial Discrimination, Organisation Mondiale des associations pour l'éducation prénatale, the Union of Arab Jurists, non-governmental organizations in special consultative status, the International Educational Development, Inc., World Peace Council, non-governmental organizations on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[17 February 2016]

^{*} This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).



Racism and Discrimination faced by newly arrived Migrants in the EU

Media channels in Europe, since the beginning of January 2016 have been reporting widespread cases of crimes committed by migrants. These reports and the portrayal of newly arrived migrants to the European Union, have been very harmful for in shaping the opinions of the citizens of the EU. Thus it is not unexpected that there has been a rise in popularity of far right groups and populist parties who have capitalized on people's anger and emotions.

This has created not only an unwelcoming environment for the migrants in Europe but also one that has resulted in violent clashes and attacks. On a larger scale these problems have led to a political climate that risks not only the safety of the migrants in their new homes but also the existence of democracy and the unity of states in Europe. The fight against xenophobia and racism is not one that is fought on the battle field or in the conference room but one that is best fought using education and social programs.

Many political fringe parties, with highly controversial and radical ideas have used the fears and ignorance of the people to their advantage. Even more so they have exaggerated it in order to multiply the fear, by claiming that peoples most precious members, their women and children are at risk as a result of migration. The truth is however that this is absolutely false, and has been manipulated with the pure intent of blackmailing people into voting such parties. The effect that this has had on the migrants is an increase in attacks on their shelters by thugs and arsonists, fortunately no one has been killed, but the attacks are becoming more frequent and brazen.

Increasing Attacks on Migrant Centres

Migrant centres are increasingly being attacked around Europe, in what seems to be "revenge" attacks for much publicized crimes committed by people who are either migrants or of migrant descent. During the year 2015, Sweden saw four more times the number of attacks on asylum shelters than in the period between 2011 and 2014 combined. Sweden has more asylum seekers and migrants per capita than any other country in Europe. Many of the suspects apprehended following such attacks are members of far right groups who act as a result of rumours or news of attacks on ethnic Swedes by migrants.¹

The belief amongst many of these youth is that, the authorities are not doing enough and thus they feel the need to act. Not only do these deplorable and horrific actions constitute racist violence but also a collective blame and punishment based often on rumours of reported crimes. Many migrants who grew up in Sweden have reported that the country has become less safe than it used to be, with some even considering the option of leaving.²

One should mention that Sweden is not the only country in Europe where similarly horrific actions have taken place. In Germany there have been over 1000 attacks on migrant accommodations in 2015. This is five times more than in 2014. The most recent of these criminal attacks to make the headlines was when a hand grenade had been thrown at a migrant hostel in Germany on the 29th of January 2016. Fortunately, the grenade did not detonate in the hostel which at the time was housing 170 migrants.³

The sheer volume in the number of such attacks just goes to show that these are common occurrences and need to be taken very seriously both by the police as well as the governments of these respective states. The actions that can be taken are none the less very sensitive since one cannot limit the level of free speech in a country. That said a lot of these attacks are propagated by political entities that are using people's fears to their electoral

¹ Wikstrom, Cajsa. "Sweden Detains Poles over Plot to Attack Asylum Centre." *Al-Jazeera*. Al-Jazeera, 10 Feb. 2016. Web. 16 Feb. 2016. <<http://www.aljazeera.com/news/2016/02/sweden-detains-poles-plot-attack-asylum-centre-160210092606548.html>>.

² Wikstrom, Cajsa. "Sweden Detains Poles over Plot to Attack Asylum Centre." *Al-Jazeera*. Al-Jazeera, 10 Feb. 2016.

³ "Migrant Crisis: Grenade Thrown at Asylum Hostel in Germany." *BBC*. British Broadcasting Corporation, 29 Jan. 2016. Web. 17 Feb. 2016. <<http://www.bbc.com/news/world-europe-35437873>>.

advantage. Hence it is recommended that strict laws against hate speech be introduced in order to prevent populists from inciting people to carry out acts of violence against migrants.

There for we call for the governments and civil societies of the EU countries to do more in order to secure the well-being of the migrants, by granting that their dignity and human rights are protected by the organs of the local law. Amongst these actions steps should also be undertaken in order to monitor the far right groups that have had a history of violence.

Long Run Initiatives

GICJ asks the governments of the European community to remember the suffering faced by millions during and following the end of the second world war. The pillars of today's European Union were built upon upholding the peace and preventing the possibility of war breaking out in the near future. Europe at the end of WWII also had millions of refugees who escaped the bombed out cities and either returned home or looked for a new home following the re-drawing of the border of Poland and Germany.

The millions of refugees also then found it difficult as did their new neighbours. But in the end with time and tolerance, these new arrivals integrated themselves well into society and benefitted their new communities greatly. This is also what we hope to see with today's migrants in Europe.

That said in order for there to be a peaceful integration there must be tolerance, law and education. These are things that should be provided at a local and national level. If the spiral of hate and violence is allowed to go on uncontrolled, we could be seeing very dark times ahead, especially given the rise of far right sentiment in Europe and the political parties that accompany them. Like all new and drastic change they take time to acclimatize to, that is if one facilitates the changes to occur smoothly.

Historically speaking the majority of cases regarding migration have led to positive changes. As a result of a growth in population brought about by the arrival of people willing to start a new life, countries have grown both socially and economically. One should note that in 2011 a Forbes magazine article found that 40% of the Fortune 500 companies in the world were founded by migrants or their children, Intel, Google and eBay are just some of the most famous examples.⁴

Hence the conclusion one can draw from this is that it is not only our duty to humanity to accommodate and protect those in need but also in our long term interest. We are well aware that there are concerns regarding the job availability in certain countries, however we are also aware that many of these countries have for many years now had negative birth rates. Should this trend continue, economies in the next 30 to 40 years will begin to strain due to the occurrence of more people who are pensioners than in the work force itself. The only way to reverse this is to increase the population of young and able bodied people who will work towards the improvement of the respective economies.

Courses of Action

We call upon the governments in Europe in particular to devise plans of action that will facilitate the safe accommodation of migrants within the borders of these respective states. Furthermore, we ask that steps be taken to educate people about the evil nature that constitutes racism and discrimination, strongly emphasizing that this is a fate that can befall all of us at one point or more in our lives. People should also be made aware of the plight that many of the migrants escaped from in order to find safety and a better life.

Acts of racism should be criminalized as they violate the fundamental human dignity of the victims. We are well aware that it is impossible to fully eradicate racism, however given the recent rise in racist motivated attacks, we do hope that at least the instances of racist attacks can be reduced over time. For this to occur the respective governments must enact the above mentioned steps and precautions.

⁴ Anderson, Stuart. "40 Percent of Fortune 500 Companies Founded by Immigrants or Their Children." *Forbes*. Forbes Magazine, 11 Jan. 2011. Web. 17 Feb. 2016. <<http://www.forbes.com/sites/stuartanderson/2011/06/19/40-percent-of-fortune-500-companies-founded-by-immigrants-or-their-children/#742a5ff17a22>>.

We must always remember that "ignorance breeds fear. Fear breeds hate. Hate breeds violence." Hence we should work to transform this cycle into: "Education breeds confidence. Confidence breeds hope and hope breeds peace."⁵

Recommendations:

- Governments of the EU should draft laws that criminalize racism and especially racist violence as serious offences.
- Call on EU governments and the respective law enforcement agencies to protect centres which house migrants, as well as keeping under close observation far-right groups that have a history of violent racist acts.
- We also call on the respective EU governments to adhere to and respect the laws pertaining to the non-refoulement of migrants that are at risk of detention, torture or death in their countries of origin.
- Initiate social educational efforts such as multi-cultural events that enable people to learn about each other's cultures and dispel misconceived fears and stereotypes.

The Brussels Tribunal, Arab Lawyers Association- UK, Geneva International Centre for Justice (GICJ), Association of Humanitarian Lawyers (AHL), The International League of Iraqi Academics (ILIA), The Iraqi Commission on Human Rights (ICHR), Women Will Association (WWA), Organization for Widows and Orphans (OWO), Ikraam Center for Human Rights, Belgian Peace Movement, Ligue camerounaise des droits de l'homme, International Coalition against War Criminals (ICAWC), Medical Aid for the Third World, Association of Iraqi Diplomats (AID), General Federation of Iraqi Women (GFIW), Association of Iraqi Intellectuals and Academics, The International Network of Arab Human Rights NGOs, The Perdana Global Peace Foundation, Kuala Lumpur Foundation to Criminalise War, Spanish Campaign against the Occupation and for Iraq Sovereignty- CEOSI, Arab Cause Solidarity Committee, Iraq Solidarity Association in Stockholm, Human Rights Defenders in Iraq (AHRDI), Centre for Human Rights and Democracy, The Iraqi Centre for Human Rights, Association, Organisation for Justice & Democracy in Iraq (OJDI), NGO(s) without consultative status, also share the views expressed in this statement.

⁵ Cortina, Joe. "Ignorance Breeds Fear. Fear Breeds Hate. Hate Breeds Violence. Education Breeds Confidence. Confidence Breeds Hope. Hope Breeds Peace." Weblog post. MYNAMEISJOECORTINA. Word Press, 01 Sept. 2012. Web. 17 Feb. 2016. <<https://mynameisjoecortina.wordpress.com/2012/09/01/ignorance-breeds-fear-fear-breeds-hate-hate-breeds-violence-education-breeds-confidence-confidence-breeds-hope-hope-breeds-peace/>>.



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Agenda items 3 and 7

Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development

Human rights situation in Palestine and other
occupied Arab territories

Joint written statement* submitted by International-Lawyers.Org, the Arab Organization for Human Rights, the General Arab Women Federation, the Indian Movement "Tupaj Amaru", the International Organization for the Elimination of All Forms of Racial Discrimination, the Union of Arab Jurists, non-governmental organizations in special consultative status, International Educational Development, Inc., the World Peace Council, non-governmental organizations on the roster, a non-governmental organization in special consultative status

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Reprisal against NGOs

Abstract

Palestinians have long suffered from inhuman treatment and human rights violations on the hands of Israeli authorities ever since the onset of the Palestinian-Israeli conflict.

This statement concerns the outlawing, criminalization and shut down of non-governmental organizations and the impedance of the activity of members of these organizations through a wide range of practices including detention, deportation, prosecution, threat of prosecution, travel bans, sequestrations of properties and funds.

The statement sheds light on an Israeli governmental decision outlawed twenty-one non-governmental organizations (NGOs). In particular:

1. Iqra' (Read) Association for Educational Advancement in the Arab Sector
2. The Islamic Organization Kofr-Kana
3. The Humanitarian Relief Fund
4. H'iraa' Association for Memorizing the Quran
5. The Negev Organization for the Human and the Land
6. Yafa Organization for Charity
7. Al-Takaful "Social Solidarity" Foundation
8. E'mar Center for Economic Development and Empowerment, and Izdiharuna for supporting small businesses
9. Al-Risala, Publishing and Media
10. The Bayariq of the Haram al-Sharif
11. Al-Masra Fund
12. Al-Aqsa Institute
13. Nour Center for Islamic Research and Studies
14. Ribat al-Quds
15. Al-Israa' for Social Development
16. Al-Isra' Fund for Relief and Development
17. Al-Isra' Organization
18. Al-Balagh Media Center
19. Relief fund
20. eimar
21. izdiharuna

The Statement should be read in context of racial, ethnic and religious discrimination.

To provide a wider context of the Israeli use of the pretext of emergency law and to highlight the gravity of the November decision the statement will address the cases of several Organizations.

The Legal Ground for Israeli Governmental Practices.

Today, Israel is a legally defined and acting Jewish state with 1.5 million Palestinian-Arab Citizens. The population is placed under a system of discrimination and exclusion supported by a legal and political system that creates a hierarchical citizenry that privileges Jews over others in Israel.

Since the year 2000, the Israeli government increased its use and reliance on The Defense Emergency Regulations (DER).¹ The regulations alongside the continued State of Emergency have since aided the removal of organizations and associations.²

¹ The Defense Emergency Regulations of 1945 were a set of British Colonial regulations enabling a government to conduct incommunicado detention, enact house demolitions, declare associations as unlawful, order sequestrations of private properties, conduct sweeping searches and seizures, ban newspapers and media outlets, conduct deportations, impose curfews and more.

Worth mentioning, up until the year 2000, Israel, declared only 55 organizations to be terrorist and unlawful. However, between 2001 and 2015 this number jumped to 320.

In addition to the use of the DER, the Israeli authorities greatly rely on The Prevention of Terrorism Ordinance (PTO) of 1948.³ Both legislations predate and contravene the Universal Declaration of Human Rights (UDHR) and remain used excessively.

The lack of conditions for fair trial is faced by organizations deemed to be unlawful, as information used for such judgment is usually kept confidential and as the law itself limits the ability of due process and puts the burden of proving innocence on the deemed organization.⁴

Alongside the authority given to the Minister of Security, the Police Commissioner has the power to close offices of unlawful organizations and associations. In line with this the government suspended hundreds of organizations, mostly organizations with Arab-Palestinian missions, ideologies, and constitutions.

I. The Islamic Movement (Northern Branch)

Established in 1970, the Movement was founded to serve the religious and socio-economic needs of the Palestinian-Arab citizens of Israel.⁵ The Movement remained operational within the narrow margins of Israeli legal and political system. However due to the Palestinian nature and their political opposition and religious difference the Movement and its leaders were subjected to repeated prosecution.

Regardless of the fact that the movement violated no laws it faced shut down in November 2015 after the government disseminated unfounded allegations claiming the movement is a part of or linked to ISIS/Hamas.

DER allowed the Israeli authorities to limit the activities of such a popular organization.

II. Iqra': The Association for Advancing Higher Education in the Arab Community

Established in 1995, Iqra' aims to increase the percentage of students with higher education among the Palestinian Arab citizens in Israel.⁶

When faced with decision, the Association according to the law requested the cancellation of the shutdown order and highlighted that they are in no way related to any terrorists. The organization went further to and requested the evidence used to increment them.⁷

This illustrates, that the Israeli government has no solid grounds to issue such orders, which are enforced on racial basis by a discriminatory judicial system.

² The Israeli Parliament (Knesset) is authorized by the law to declare a State of Emergency of up to one year, and every six months or one year the Knesset extends the State of Emergency.

³ The Prevention of terrorism Ordinance allows the ministry of security to declare an organization as terrorist or unlawful. The ordinance encompasses several unconstitutional components.

⁴ Article 8 of the *Prevention of Terrorism Ordinance*, "If the Government, by notice in the Official Gazette, declares that a particular body of persons is a terrorist organization, the notice shall serve, in any legal proceeding, as proof that that body of persons is a terrorist organization, unless the contrary is proven."

⁵ The Islamic Movement, focused on communal development through cultural activities, socio-economic relief and support, political participation and empowerment of Palestinian communities.

⁶ Iqra supports high school students in choosing the proper field of study and organizes training courses for various university admissions exams. Iqra' serves around 10000 students.

⁷ Request for evidence was denied and the ministry of security issued a vague statement. "Per your request, below is a paraphrasing of the intelligence information that could be released together with the reasons for declaring your organization as an unlawful association.

According to the information in our hands, *Iqra'* Organization for Advancing Education in the Arab Sector (hereafter: "the organization"), was founded in the late 1990s by activists of the Islamic Movement and with the involvement of its leaders, in order to organize student-based educational activities by the Movement. The Islamic Movement sees the organization as a platform to recruit people to its cadre.

Further, we have information that the organization received funding from other organizations that belong to the Islamic Movement.

III. The Negev/Naqab Association

Founded in 2001, the Naqab Association carries the main objective of ameliorating the socio-political tragedy of the Palestinian Arab Bedouin citizens of the Naqab.⁸⁹

The Naqab Association was deemed unlawful by the Israeli government despite the fact that it has been active for fifteen years with no major changes that would necessitate its criminalization. Again, the major allegation is that some of its members are Muslims and political activists who oppose the Israeli policies against the Naqab Bedouin citizens.

IV. E'mar Center for Economic Development and Empowerment

Founded in 2008, *E'mar* deals with poverty and economic impoverishment in Palestinian communities in Israel.

Like all previously mentioned organizations, *E'mar* faced injustice from the Israeli authorities under the same charges as other institutions and via the abuse of DER and PTO legislation.

V. Alquds Foundation for Development

Alquds Foundation for Development (hereby the Foundation) is a nonprofit organization established in 2008 to serve public and social objectives in East Jerusalem. Since its establishment, the Foundation provided social, legal, and planning services to residents of East Jerusalem who suffer from grave breaches of their rights by the Israeli authorities.¹⁰

On 23rd October 2011, Israeli police raided the Foundation's offices, an employee was arrested and all hardware material was confiscated. Two days later offices were re-raided and ordered shut down. The closure order was originally for a month but was further extended till October 2012.

The main allegation was that the arrested employee was suspected to be a Hamas member and therefore poses a security threat. Although the arrested employee was fired the shutdown order remained intact.

The foundation put forward a petition to the Israeli high court. Initially the court ruled that the order outlawing the foundation was void. However, a new ban was issued extending the duration of the initial ban.¹¹

A number of other orders were issued including closure of the foundation's offices in Jerusalem. And all attempts to challenge the ban were unsuccessful.

Conclusion

1. The recent ban targets peaceful civil society organizations dedicated to protecting and promoting human rights. By outlawing such institutions, governmental authorities have silenced political dissent and opposition.
2. The board members of all organizations deemed unlawful are all Palestinian Arab citizens of Israel, with no criminal records hence, the actions of the government prove to be of a discriminatory nature.
3. The Israeli legal system makes it impossible for any non-governmental institution to challenge the orders of the State.
4. Contrary to international law, Israel has declared a State of Emergency for 68 years, in both the Occupied Palestinian Territories and in armistice Israel.¹²

⁸ About 100,000 residents of this community live in 45 so-called unrecognized villages in the Naqab, without any basic services of roads, sanitation, running water or electricity, or educational and social services. In addition to denying them basic civil services, Israeli law subjects all constructions in these villages to demolition.

⁹ Palestinian Arab Bedouin citizens were dispossessed of their original lands and placed on new sites without any legal status.

¹⁰ The Foundation also focuses its activities on housing, humanitarian assistance, and legal services. To deal with the city of Jerusalem's systematic refusal to grant Palestinian residents building permits the foundation, sought to legalize illegal construction via renovations and preparation of zoning plans. The foundation further assists people in need, primarily by providing food to low-income residents of East Jerusalem and providing legal advocacy to residents dealing with the same myriad forms of discrimination.

¹¹ The court ruled that due to the geographical location of the Foundation it is for the Israeli Military Commander and not the Police Commissioner to determine if the foundation is unlawful.

¹² Article 4 of the ICCPR and General Comment No.29 of the Committee on Civil and Political rights outline that any emergency measure must be of an exceptional and temporary nature and must be limited to the extent strictly required by the exigencies of the situation. A 68 year old state of emergency is not temporary.

5. All the outlawed organizations reject emphatically Israel's allegations because they have been acting lawfully. Israel's decision to outlaw these organizations reflects ongoing persecution of and discrimination against the native Palestinian population. In particular, the outlawing of Muslim organizations is an explicit and unlawful form of discrimination against Muslims.
6. Governmental authorities would pursue criminal prosecutions if they actually had evidence to indict the institutions in question. The lack of usable evidence causes authorities to turn to an outdated colonial law such as DER.
7. The official Israeli list of "terrorist" and "unlawful" organizations reflects an erroneous, misleading, and fundamentally discriminatory policy of associating all Muslims with terrorism. The recent banning of these organizations is yet another example of Israeli exploitation of "security concerns."¹³
8. Israeli policies and practices are contrary to and in violation of ICCPR and UDHR.¹³
9. The Israeli move is in grave violation of the Human Rights Council resolution 24/24 of 9 October 2013. The ban of non-governmental organizations is a flagrant breach of international law and the international Human Rights law.
10. The right to establish organizations, for all religious, political, social or cultural reason is a fundamental right that all UN member states should respect, therefore NGOs should be protected from prosecution, intimidation or reprisals

Recommendations:

- The Human Rights Council is legally obliged to take action regarding the information in this report and all the reprisals against human rights defenders by the Israeli authorities.
- We urge all member states of the Human Rights Council to exert all its efforts and pressure on Israel in order to refrain from all acts of intimidation or reprisal against NGOs.
- We call on the Special Rapporteur on Palestine, the Special Rapporteur on the right to freedom of assembly and of association to follow up these violations in their coming reports.

Meezaan Center for Human Rights, The Arab Association for Human Rights, The BRussels Tribunal, Arab Lawyers Association- UK, Geneva International Centre for Justice (GICJ), Association of Humanitarian Lawyers (AHL), The International League of Iraqi Academics (ILIA), The Iraqi Commission on Human Rights (ICHR), Women Will Association (WWA), Organization for Widows and Orphans (OWO), Ikraam Center for Human Rights, Belgian Peace Movement, Ligue camerounaise des droits de l'homme, International Coalition against War Criminals (ICAWC), Medical Aid for the Third World, Association of Iraqi Diplomats (AID), General Federation of Iraqi Women (GFIW), Association of Iraqi Intellectuals and Academics, The International Network of Arab Human Rights NGOs, The Perdana Global Peace Foundation, Kuala Lumpur Foundation to Criminalise War, Spanish Campaign against the Occupation and for Iraq Sovereignty- CEOSI, Arab Cause Solidarity Committee, Iraq Solidarity Association in Stockholm, Human Rights Defenders in Iraq (AHRDI), Centre for Human Rights and Democracy, The Iraqi Centre for Human Rights, Association, Organisation for Justice & Democracy in Iraq (OJDI), NGOs without consultative status, also share the views expressed in this statement.

¹³ Article 22 of ICCPR and Articles 7,19,29 of the UDHR



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Agenda item 3

Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development

**Written statement* submitted by International-Lawyers.Org,
International Organization for the Elimination of All Forms
of Racial Discrimination, Union of Arab Jurists, non-
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Climate change and Right to Health

2015 was a seminal year for international action on climate change and health. Both the SDGs adopted at the UNGA (September 2015), and the Paris Agreement on climate change, adopted at COP21 in December 2015 under the UN Framework Convention on Climate Change (UNFCCC), contain links not only to the relationship between health and climate change, but the latter, abet in its preamble, contains a reference to "the right to health." In addition, the Third Financing for Development Conference (FFD3) mentions both health and climate change more than a dozen times in the Addis Abba Agenda.

Although we welcome SDGs 3 and 13 on health and climate change respectively and their accompanying targets, we note that there is no mention of the right to health, despite the fact that the NGO/DPI Conference in August/September 2014 identified this as a serious deficiency. SDG 13 on climate change merely defers to the action it was hoped would be taken in Paris. The SDGs, therefore, although valuable guidance and in some cases reflecting a human rights approach, were disappointingly lacking as a contribution to help address the very serious health consequences of climate change.

Equally, the Addis Abba Agenda (AAA) agreed at FFD3 contains no concrete pledge of new and additional financial resources to address the health consequences of climate change. This is despite the clear obligation of developed States to provide new and additional financial resources to developing States found in article 4(3) of the UNFCCC. The AAA does recognize "that increases in global temperature, sea level rise, ocean acidification, and other climate change impacts are seriously affecting coastal areas and low-lying coastal countries including many least developed countries and small island developing States, while extreme climate events endanger the lives and livelihoods of millions" (para. 65). Despite this recognition no concrete pledges were made.

The Paris Agreement contains language on human rights, and particularly the right to health. This language, however, appears in the non-operative preamble of the Agreement. We had hoped that human rights, the right to development, the rights of indigenous peoples, and the right to health would be reaffirmed as legally binding obligations of States in the operative paragraphs and a commitment to protecting people from the unavoidable consequences of climate change. Instead there is a vague provision on loss and damage in article 8, and shameful disclaimer in the COP21 Decision in paragraph 52 that attempts to extinguish the rights of future generations. Such a provision is inconsistent with international human rights law. Even financing, capacity-building, and access to technology were not agreed. As if to add insult to injury the Paris COP by changing a substantive obligation to an aspiration and claiming it was a merely technical revision. How could this happen? One reason, regrettably, was that civil society and much of international society that participated in the UNFCCC processes were excluded from key processes. COP21 lacked transparency and inclusiveness. The exclusion was so significant that a Council mandate holder noted that "important climate treaty is being negotiated largely behind closed doors and without adequate openness and transparency" inconsistent with articles 19 (freedom to impart and receive information) and 25 (right to participate in one's government) of the International Covenant on Civil and Political Rights.¹ Regrettably the Special Rapporteur on human rights and the environment, who had highlighted the participatory rights that citizens enjoy according to Europe's Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters,² remained silent. As consequence, the Paris Agreement that was rapidly pushed through at COP21 creates more problems than it resolves for ensuring respect for human rights.

During 2015 WHO also considered health and climate change as an agenda item during the 136th meeting of its Executive Board in January 2015. At this meeting, however, the item of health and climate change was suspiciously removed from the World Health Assembly's agenda. This happened through the alleged adoption of a WHO Workplan on health and climate change that allowed the removal of the agenda item of health and climate change from the agenda of the 68th World Health Assembly in May 2015 despite the fact that no Workplan on health and climate change was

¹ Statement by Mr. Alfred de Zayas, United Nations Independent Expert on the Promotion of a Democratic and Equitable International Order, entitled "COP21 and the future of humanity," issued on 17 December 2015.

² 2161 UNTS 447 (1998).

presented, but only "elements of a Workplan".³ Mistakenly, these were adopted as a Workplan. Again this year in the just past 138th meeting of the WHO Executive Board health and climate change did not appear on the agenda. Fortunately, several States indicated that the 69th WHA agenda should include health and climate change. The Council's own Council's Special Rapporteur on the right to the highest attainable standard of mental and physical health could ensure that the topics of the right to health and climate change are considered.⁴

Finally, this Council itself considered human rights and climate change during its 28th Regular Session in March 2015 holding a full-day panel on the topic. At this panel both a States and civil society called on the Council to take the more effective action of creating the post of Special Rapporteur on human rights and climate change. This echoed the call made by several Ministers in March 2013 during the High Level Segment of the Human Rights Council and civil society and Council's Social Forum in 2010. Still just a few States have prevented effective action. Again this year, as the shorter panel indicates, the Council will continue to discuss human rights and climate change, but will not take effective action.

The Facts on the Ground

Nature does not wait for political processes. Our members in Egypt, in Palestine, in Nigeria, in Vanuatu and in Sierra Leone have seen the deadly effects of climate change already. The increased desertification and the inability to produce food leading to malnutrition and starvation; the drying up of wells and rivers leading to dehydration; flooding leading to increased transmission of waterborne diseases; increased burdens of disease due to temperature rises with exposure to animals that give rise to diseases⁵ such as Malaria, Zika fever, bird flu, yellow fever, cholera, Ebola, the plague, tuberculosis, dengue, diarrhea, etc. These adverse effects of climate change were not a surprise. In its *Fourth Assessment Report* in 2007 the International Panel on Climate Change (IPCC) had already warned us that inhumane and often deadly adverse effects of climate change are "likely" to occur.⁶ In its *Fifth Assessment Report* in 2015, the IPCC states further that the "[w]arming of the climate system is unequivocal, and since the 1950s, many of the observed changes are unprecedented over decades to millennia."⁷ As a consequence the IPCC states that it is now "extremely likely" that the worst adverse consequences will occur.⁸ Climate scientist James Hansen and his colleagues not only concurred, but in 2015 warned us that it is too late to prevent much of the predicted harm.⁹ And in a study on environment and health in Africa, WHO estimated that more than 154 million Africans would perish from adverse environmental impacts in the rest of this century.¹⁰

We cannot plead ignorance. We know what is happening. Already at COP15 G77-Coordinator Lumumba Daping pleaded with the international community not to forsake hundreds of millions of people by its failure to take adequate action. At COP21 this warning was again ignored.

Now is the Time to Act

³ See WHO Doc. EB136/16.

⁴ In accordance with the WHO Constitution and Rules 5(e) and/or (f) Rules of Procedure of the World Health Assembly.

⁵ See Wildlife Conservation Society, "The Deadly Dozen: Wildlife Diseases in the Age of Climate Change" (7 October 2008), and Campbell-Lendrum, D., and Woodruff, R., "Comparative Risk Assessment of the Burden of Disease from Climate Change," 114(12) *Environmental Health Perspectives* 1935 (December 2006).

⁶ See generally, IPCC, *Climate Change 2007(Fourth Assessment Report)* (2007).

⁷ *Id.* at 2.

⁸ *Id.* at 47.

⁹ Hansen, J., Sato, M., Hearty, P., Ruedy, R., Kelley, M., Masson-Delmotte, V., Russell, G., Tselioudis, G., Cao, J., Rignot, E., Velicogna, I., Kandiano, E., Schuckmann, K. von, Kharecha P., Legrande, A.N., Bauer, M., and Lo, K.W., "Ice melt, sea level rise and superstorms: evidence from paleoclimate data, climate modeling, and modern observations that 2°C global warming is highly dangerous," 15 *Atmos. Chem. Phys. Discuss.* 20059–20179 (2015).

¹⁰ World Health Organization, *Preventing disease through healthy environments*, (2006), (Table A2.3: Deaths attributable to environmental factors, by disease and mortality stratum for WHO regions in 2004, updated data for 2004, listing 1,544,000 deaths per year attributable to environmental risk factors in Africa).

While the *de minimus* efforts in 2015 have done little to help us achieve adequate action, they do not mean that we cannot take more adequate action than we have been encouraged to take. If there is any forum where this can start, it is the Human Rights Council.

Almost forty years ago, the Alma Ata Declaration, adopted under the auspices of the World Health Organization, called for health for all and for the recognition of health as a human right. The Universal Declaration of Human Rights in 1948 and International Covenant of Economic, Social, and Cultural Rights contain this human right. The Alma Ata Declaration while merely reiterating legal commitments that States had undertaken in a treaty and under customary international law was also an expression of extraordinary political will that reiterated the commitment of all the international community to strive for the right to health.

These duties require action. As first steps, we, can

1. Call on all States to publicly pledge that they will take all necessary action to protect the health of all of their people from the adverse consequences of climate change.
2. Call on the Human Rights Council to urgently create the post of Special Rapporteur on human rights and climate change.
3. Call on the Council's Special Rapporteur on the right to the highest attainable standard of mental and physical health to exercise the prerogative of the United Nations as allowed by the WHO's Constitution and WHA Rules, to place on the agenda of the WHA the "The right to health" with a view towards adopting a WHA resolution on the right to health.

The Brussels Tribunal, Arab Lawyers Association- UK, Geneva International Centre for Justice (GICJ), Association of Humanitarian Lawyers (AHL), The International League of Iraqi Academics (ILIA), The Iraqi Commission on Human Rights (ICHR), Women Will Association (WWA), Organization for Widows and Orphans (OWO), Ikraam Center for Human Rights, Belgian Peace Movement, Ligue camerounaise des droits de l'homme, International Coalition against War Criminals (ICAWC), Medical Aid for the Third World, Association of Iraqi Diplomats (AID), General Federation of Iraqi Women (GFIW), Association of Iraqi Intellectuals and Academics, The International Network of Arab Human Rights NGOs, The Perdana Global Peace Foundation, Kuala Lumpur Foundation to Criminalise War, Spanish Campaign against the Occupation and for Iraq Sovereignty- CEOSI, Arab Cause Solidarity Committee, Iraq Solidarity Association in Stockholm, Human Rights Defenders in Iraq (AHRDI), Centre for Human Rights and Democracy, The Iraqi Centre for Human Rights, Association, Organisation for Justice & Democracy in Iraq (OJDI), NGOs without consultative status, also share the views expressed in this statement.